

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

**§ 18413. Reporting Independent Expenditures by Eligible 501(c)(3)/501(c)(4) Organizations.**

(a) Application. This regulation provides an event-based reporting alternative for an eligible 501(c)(3) or 501(c)(4) organization that makes occasional independent expenditures from its general treasury to support or oppose a ballot measure in California. This reporting option does not apply for contributions or independent expenditures made by a 501(c)(3) or 501(c)(4) organization to support or oppose a candidate in a California election, or to contributions made to support or oppose a ballot measure in California.

(b) Definitions. For purposes of this regulation, "Eligible 501(c)(3) or 501(c)(4) organization" means an organization to which all of the following apply:

(1) The organization has received either a 501(c)(3) or 501(c)(4) tax-exempt status from the Internal Revenue Service and is operating under either Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code; and if incorporated in the State of California, has received a tax-exempt determination from the California Franchise Tax Board under California Revenue and Taxation Code Section 23701d or 23701f, or if incorporated in a state other than California, has received the required tax-exempt determination under the laws of the state of incorporation.

(2) The organization is multipurpose and occasionally makes independent expenditures, using funds donated directly to its general treasury by individuals or business entities, to support or oppose ballot measures in California. "Occasionally makes independent expenditures" means either of the following:

(A) Expenditures from the organization's general treasury totaling, in the aggregate in a calendar year, less than \$500,000 to support or oppose four or fewer state ballot measures.

(B) Expenditures from the organization's general treasury totaling, in the aggregate in a calendar year, less than \$50,000 to support or oppose one or more local ballot measures.

(c) Reporting Options. Under Regulation 18215(b)(1), an eligible 501(c)(3) or 501(c)(4) organization that makes an independent expenditure from its general treasury is required to identify the donors of funds utilized to make independent expenditures on ballot measures in California, if the organization has previously made independent expenditures or contributions from its general treasury totaling at least one thousand dollars (\$1,000) during the same calendar year, or during any of the four calendar years immediately preceding that year. An eligible 501(c)(3) or 501(c)(4) organization shall either (1) report the independent expenditure as a recipient committee or (2) elect to report the independent expenditure under the event-based reporting rules set forth in subdivision (d) without designating a treasurer, filing a statement of organization, periodic recipient committee reports on Form 460, or a statement of termination.

(d) Event-Based Independent Expenditure Reporting.

(1) When to File. An eligible 501(c)(3) or 501(c)(4) organization that elects event-based reporting shall report an independent expenditure of \$1,000 or more made from its general treasury to support or oppose the qualification or passage of a ballot measure on an Independent Expenditure Report (Form 496) filed within 10 business days after making the independent expenditure. However, if the eligible 501(c)(3) or 501(c)(4)

organization makes the independent expenditure during the 90 days preceding a state election or 16 days preceding a local election in which the measure appears on the ballot, it shall file the Independent Expenditure Report within 24 hours after making the independent expenditure.

(2) Report Contents.

(A) The Form 496 report shall list the eligible 501(c)(3) or 501(c)(4) organization's full name and street address, and in addition, shall include the designation "Eligible 501(c)(3) IE Report" or "Eligible 501(c)(4) IE Report" in the "Name of Filer" field, indicating the organization's election to use event-based independent expenditure reporting. The report shall include the name of a current officer, director, or trustee of the 501(c)(3) or 501(c)(4) organization listed on the organization's Internal Revenue Service Form 990, who shall be responsible for the accuracy and completeness of the report.

(B) The Form 496 report shall contain the information about the independent expenditure required by the form concerning the date, amount, and description of the goods or services for which the expenditure was made, and shall identify the measure the independent expenditure is supporting or opposing as specified in Section 84204.5(a)(2).

(C) The Form 496 report shall identify the donors whose payments of \$100 or more to the general treasury were used to pay for the independent expenditure. If only a part of a donor's payment to the organization was used to make independent expenditures, the payment may be apportioned for reporting purposes. The organization may use any reasonable method that accurately reflects the sources of funds for the expenditure, such as apportioning the donor's payments, or using the last in, first out, accounting method. Once the organization selects an accounting method, it must continue

to use the same method. Donor payments to the organization that may be subject to itemized disclosure are those made after the date of the organization's first expenditure or contribution of \$1,000 or more pursuant to Regulation 18215(b)(1). However, if the donor knows that his or her payment to the organization will be used for ballot measure independent expenditures the payment shall be disclosed as contributed by that donor.

(D) The organization shall maintain the records necessary to document the donor contributions and the independent expenditures reported.

(3) Where to File. For an independent expenditure in connection with a state measure, the organization shall file a Form 496 report electronically with the California Secretary of State. For an independent expenditure in connection with a local measure, the organization shall file a Form 496 report electronically with the California Secretary of State, and shall also file a copy of the report with the clerk of the city or county in which the measure is being voted on.

(e) A 501(c)(3) or 501(c)(4) organization that is not an eligible 501(c)(3) or 501(c)(4) organization but otherwise qualifies as a recipient committee under Title 9 (commencing with Section 81000) of the Government Code shall report as a recipient committee.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82013, 84204 and 85500, Government Code.

## HISTORY

1. New section filed 12-19-2007 as an emergency; operative 12-19-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate

District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2007, No. 51). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4-18-2008.

2. Certificate of Compliance as to 12-19-2007 order, including amendment of section heading and section, transmitted to OAL 4-11-2008 and filed 5-14-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate

District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2008, No. 20).